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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,527	10/01/2003	Eiko Seidel	2003_1399	5347
513	7590	08/23/2005	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			JUNG, MIN	
2033 K STREET N. W.			ART UNIT	
SUITE 800			PAPER NUMBER	
WASHINGTON, DC 20006-1021			2663	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/674,527	SEIDEL ET AL.	
	Examiner	Art Unit	
	Min Jung	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/858,590.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 5, it is not clear if only one indicator is assigned to one of the protocol data units, or indicators are assigned to each respective protocol data units. At lines 6-7, the clause is tangled, and therefore, unclear in meaning; is the indicator transmitted on a control channel along with an allocation message, which includes information about the channelization code of the data channel? It is not clear what are carried in the control channel, and what is the relationship among different pieces of information, e.g., among the indicator, allocation message, and information about the channelization code?

In claim 11, line 5, it is not clear if only one indicator is assigned to one of the protocol data units, or indicators are assigned to each respective protocol data units. At lines 6-7, it is not clear if the recitation relates to a certain one of the protocol data units.

Claims 14 and 23 contain indefiniteness which is similar in nature as the ones pointed out for claim 9. Clarification is required.

Claims 18 and 24 contain indefiniteness which is similar in nature as the ones pointed out for claim 11. Clarification is required.

Additionally, in claim 23 and 24, it is not clear whether or not the transmission apparatus transmits the indicator as well, since the claim recitation is tangled and unclear in meaning. It is also not clear whether or not the reception apparatus is operable to receive the plurality of protocol data units and the indicator.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-13, 18-22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Support of Hybrid ARQ Type II/III in the Physical Layer", TSG-RAN Working Group 1 meeting #4 (TSG-RAN, hereinafter).

Regarding claims 11-13, 18-22, and 24, TSG-RAN teaches that for HARQ Type II/III, the PDU number (indicator or sequence number) must be transmitted separately from the PDU data, and that the numbering information is sent in a separate Transport Channel. TSG-RAN, however, fails to specifically teach that the PDU number is transmitted before transmitting the PDU. TSG-RAN, by teaching the transmission in separate Transport channel (separate physical channel), inherently teaches the asynchronous nature of transmission. Therefore, it can be assumed that the

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transmission of PDU number may happen before or after the transmission of the PDU. However, one of ordinary skill in the art would realize that it would make much more sense to send PDU number before sending PDU since the receiving end would utilize PDU number for the reception of corresponding PDU. TSG-RAN suggests this in the discussion of "Hybrid ARQ Type II/III at the receiving side" in the middle of page 2. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to implement TSG-RAN teaching by transmitting the PDU number (indicator or sequence number) before transmitting PDU in order for receiver to utilize the PDU number information for receiving the PDUs.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Furuskar et al. patent is cited for further references.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Jung whose telephone number is 571-272-3127.

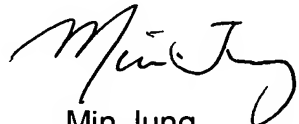
The examiner can normally be reached on Monday, Thursday, Friday 7:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ
August 18, 2005


Min Jung
Primary Examiner